



THE SECRETARY OF TRANSPORTATION  
WASHINGTON, D.C. 20590

June 5, 2002

The Honorable Richard B. Cheney  
President of the Senate  
Washington, D.C. 20510

Dear Mr. President:

There is transmitted herewith a proposed bill

"To authorize appropriations for Fiscal Year 2003 for certain maritime programs of the Department of Transportation, and for other purposes."

This proposal authorizes appropriations for certain maritime programs to promote a strong U.S. Merchant Marine at the funding levels contained in the President's budget for Fiscal Year 2003. These programs include operations and training activities and the cost of administering guaranteed loans under the Title XI loan guarantee program, as required by the Federal Credit Reform Act of 1990.

Operations and training funds requested in section two of the proposal include the costs incurred by headquarters and region staffs in the administration and direction of the various programs of the Maritime Administration (MARAD). Operations and training funds also include funds for the operation of the United States Merchant Marine Academy at Kings Point, New York, and continuing assistance to the six State maritime academies in the form of direct payments, incentive payments to cadets currently enrolled in the Student Incentive Payment (SIP) Program, and funding for maintenance and repair of MARAD ships on loan to the academies for use as training ships. Operations and training funds will also allow MARAD to continue administration of the American Fisheries Act, established by P.L. 105-277, the Omnibus Appropriations Act for Fiscal Year 1999.

The proposal will also authorize funding for the disposal of obsolete government vessels. This funding will enable MARAD to continue disposing of vessels in the National Defense Reserve Fleets (NDRF) that pose the highest risk to the environment. Included in these funds are administrative costs associated with program implementation.

Additionally, the proposal will provide administrative funding associated with managing the Title XI loan guarantee portfolio.

Section three eliminates reimbursement by the Department of Transportation to the Department of Agriculture for certain export programs. It also streamlines

management of the cargo preference program by conforming the cargo preference year to the Federal Government Fiscal Year.

Section three also temporarily eliminates the 3-year waiting period that a newly registered bulk or breakbulk vessel constructed abroad must satisfy in order to carry government-impelled cargo. It is anticipated that this amendment will improve the vessel profile of the U.S.-flag dry bulk fleet, add jobs for U.S. merchant mariners, and increase the percentage of U.S. foreign commerce carried in U.S.-flag vessels.

Section four will eliminate certain tariffs levied upon repairs and repair parts that are needed by the National Defense Reserve Fleet/Ready Reserve Force. The elimination of these tariffs will streamline MARAD's performance of its national security function with respect to the operation of these vessels.

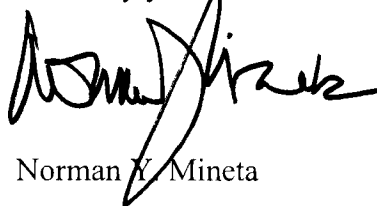
Section five will allow the Secretary of Transportation to use funds in the Vessel Operations Revolving Fund for disposal of obsolete Government vessels. Currently, use of the fund is limited to operation and maintenance of vessels under the jurisdiction of the Secretary of Transportation. Section five will also allow the Government to assist in the preparation of obsolete NDRF vessels for use as artificial reefs if the expenditure is the most efficient use of funds given the other disposal options available. At present, disposal of obsolete vessels by turning them into artificial reefs must be accomplished at no cost to the Government. This section would also create a 12-month congressional reporting cycle on the disposal of obsolete vessels in lieu of the existing 6-month cycle.

Section six provides the Secretary of Transportation with a mechanism to fund any deficiencies that may arise with respect to the Department's administration of war risk insurance for commercial vessels.

Last, section seven allows MARAD to use funds received from a settlement for legally authorized purposes, including completion of repairs to the Fitch Building at the U.S. Merchant Marine Academy.

The Office of Management and Budget advises that there is no objection to the presentation of this proposed legislation to Congress, and that its enactment would be in accord with the program of the President.

Sincerely yours

A handwritten signature in black ink, appearing to read "Norman Y. Mineta", written over a horizontal line.

Norman Y. Mineta

2 Enclosures

Identical letter to the Speaker of the House  
Draft bill and section-by-section analysis

## A BILL

To authorize appropriations for Fiscal Year 2003 for certain maritime programs of the Department of Transportation, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### **SECTION 1. SHORT TITLE.**

This Act may be cited as the “Maritime Administration Authorization Act for Fiscal Year 2003.”

### **SEC. 2. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2003.**

Funds are hereby authorized to be appropriated, as Appropriations Acts may provide, for the use of the Department of Transportation for the Maritime Administration as follows:

(a) OPERATIONS AND TRAINING.- For expenses necessary for operations and training activities, not to exceed \$97,221,143 for the fiscal year ending September 30, 2003, of which \$13,000,000 is for capital improvements at the U. S. Merchant Marine Academy, to remain available until expended.

(b) MARITIME GUARANTEED LOANS.- For administrative expenses related to loan guarantee commitments under Title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 *et seq.*) \$4,482,152.

(c) SHIP DISPOSAL.- For disposal of obsolete vessels in the National Defense Reserve Fleet, \$11,161,386, to remain available until expended.

**SEC. 3. AMENDMENTS TO TITLE IX OF THE MERCHANT MARINE ACT,  
1936.**

**(a) ELIMINATION OF OCEAN FREIGHT DIFFERENTIAL  
REIMBURSEMENT.-**

(1) Section 901d of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241h) is repealed.

(2) Sections 901e through 901k of the Merchant Marine Act, 1936 are redesignated as sections 901d through 901j, respectively.

(3) Section 901d, as redesignated by paragraph (2), is amended by striking “901k” and inserting “901j”.

(4) Section 901e, as redesignated by paragraph (2), is amended to read as follows:

“Sec. 901e. TERMINATION OF SECTIONS 901a THROUGH 901d AND 901f THROUGH 901j UPON NOTIFICATION OF CONGRESS RESPECTING FAILURE TO FINANCE THE INCREASED OCEAN FREIGHT CHARGES. The Secretary of Transportation shall notify Congress within 10 working days of determining that the Secretary of Agriculture is unable to or does not agree to finance the increased ocean freight charges resulting from the requirements of section 901b(a). The operation of sections 901a through 901d and 901f through 901j shall terminate 90 days after the date on which a notification is made under this section, except with respect to shipments of agricultural commodities and products subject to contracts entered into before the expiration of 90-day period, unless within the 90-day period the Secretary of Transportation is notified by the Secretary of Agriculture

that funds are available to finance the increased freight charges resulting from the requirements of section 901b(a). In the event of termination under this section, nothing in section 901a through 901c shall be construed as exempting export activities from or subjecting export activities to the cargo preference laws. In the event of termination under this section, the 50 percent requirement in section 901(b) of the Merchant Marine Act, 1936, shall remain in full effect.”.

(5) Section 901f, as redesignated by paragraph (2), is amended by striking “901j” and inserting “901i”.

(b) DOCUMENTATION OF CERTAIN DRY CARGO VESSELS.- Title IX of the Merchant Marine Act, 1936 (46 U.S.C. App. 1101 *et seq.*) is amended by adding at the end the following:

“SEC. 910. DOCUMENTATION OF CERTAIN DRY CARGO VESSELS.

“(a) IN GENERAL.- The restrictions of section 901(b)(1) of this Act concerning a vessel built in a foreign country shall not apply to a dry-bulk or breakbulk vessel over 7,500 deadweight tons that has been originally delivered as a newly constructed vessel from a foreign shipyard or contracted for construction in a foreign shipyard, during the three-year period that begins on the date of enactment of this section.

“(b) REQUIREMENTS.- A vessel timely contracted for or delivered pursuant to subsection (a) and documented under the laws of the United States shall be deemed to have been United-States built for purposes of sections 901(b) and 901b of this Act only if--

“(1) the vessel is not documented in another country before being documented under the laws of the United States;

“(2) the vessel complies with the inspection standards under chapter 33 of title 46, United States Code;

“(3) actual delivery of a vessel contracted for construction takes place on or before the 3-year anniversary of the date of the contract to construct the vessel; and

“(4) not later than 90 days before a contract for the construction or purchase of a new vessel intended to be documented under this section is made final, the person contracting for the new vessel shall provide, to each shipyard in the United States capable of constructing the vessel sought to be built or purchased, notice of the intended foreign construction or purchase.

“(c) DRYDOCK WORK.- In order to remain eligible to carry preference cargo under sections 901(b) and 901b of this Act, a vessel documented under this section must perform any drydock work necessary to maintain its Coast Guard certificate of inspection and classification society class rating in a United States shipyard.

“(d) SECTION 12106(e) OF TITLE 46- Section 12106(e) of title 46, United States Code, does not apply to a vessel built under this section.”.

(c) CONFORMING CARGO PREFERENCE YEAR TO FEDERAL FISCAL YEAR.- Section 901b(c)(2) of the Merchant Marine Act, 1936 (46 U.S.C App. 1241f(c)(2)) is amended by inserting after “1986” the following: “, the 18-month period beginning April 1, 2002, and the 12-month period beginning October 1, 2003, and each year thereafter.”.

#### **SEC. 4. ELIMINATION OF TARIFFS ON CERTAIN NATIONAL DEFENSE ACTIVITIES.**

(a) DUTY- FREE TREATMENT FOR EMERGENCY WAR MATERIALS IMPORTED FOR USE BY THE MARITIME ADMINISTRATION. (1) The superior text to subheading 9808.00.30 of Chapter 98 of the Harmonized Tariff Schedule of the United States is amended by inserting after the word “departments” the words “or the Maritime Administration”.

(2) Subheading 9808.00.30 of Chapter 98 of the Harmonized Tariff Schedule of the United States is re-designated as 9808.00.35.

(3) The amendments made in this subsection shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after the fifteenth day after the date of enactment of this Act.

(b) ELIMINATION OF AD VALOREM TAX ON FOREIGN REPAIRS MADE TO VESSELS OPERATED AS PART OF THE NATIONAL DEFENSE RESERVE FLEET.- Section 466 of the Tariff Act of 1930 (19 U.S.C. 1466) is amended by re-designating subsections (g) and (h) as subsections (h) and (i), respectively, and inserting after subsection (f) the following new subsection:

“(g) National Defense Reserve Fleet Exception. The duty imposed under subsection (a) shall not apply to the cost of equipment, or any part thereof purchased, of repair parts or materials used, or of repairs made in a foreign country for any vessel operated as part of the National Defense Reserve Fleet when the vessel is under the jurisdictional control of the Department of Defense.”.

## **SEC. 5. DISPOSAL OF OBSOLETE GOVERNMENT VESSELS.**

(a) VESSEL OPERATIONS REVOLVING FUND.- Section 801 of the Act of June 2, 1951 (46 U.S.C. App. 1241a) is amended by striking the words “and betterment” in the first sentence and inserting “remediation and disposal”.

(b) USE OF OBSOLETE VESSELS AS ARTIFICIAL REEFS.- Section 4 of the Act of August 22, 1972 (16 U.S.C.1220a) is amended:

(1) by amending paragraph (3) to read as follows:

“(3) At the discretion of the Secretary the transfer may be accomplished with the expenditure of Federal funds paid to the State and applied to the cost of preparing the vessel for use as an artificial reef. The amount of funding provided shall be based upon consideration of the availability of funds, benefit to the program, and cost effectiveness compared to other ship disposal options. The transfer shall occur with the State taking delivery of obsolete ships at fleetside of the National Defense Reserve Fleet in an ‘as is - where is’ condition; and”;

(2) by amending paragraph (4) to read as follows:

“(4) The Secretary shall require vessel recipients to provide certain cost data and other information as determined by the Secretary to justify and document the funding provided by the Federal Government for each vessel transferred. The Secretary may require any additional terms and conditions to protect the environment and the interests of the United States.”.

(c) ABATEMENT OF SAFETY AND ENVIRONMENTAL HAZARDS.-

Section 6(a)(1) of the National Maritime Heritage Act of 1994 (16 U.S.C. 5405(a)(1)) is amended by inserting after the word “available” the following: “exclusively to the



Administrator of the Maritime Administration if it is determined by the Administrator that the funds generated from the sale of obsolete NDRF vessels are necessary for the abatement or disposal of other NDRF vessels that may be a danger to safety or the environment. Such funds shall be available until expended. If no such determination is made, the funds shall be available”.

**(c) REPORTING TO CONGRESS ON DISPOSAL OF OBSOLETE VESSELS.**

Pub. L. 106-398, section 1 [div. B, title XXXV, section 3502(e)] is amended by striking “6 months” and inserting “12 months”.

**SEC. 6. INSURANCE FOR VESSELS IN SUPPORT OF NATO,  
INTERNATIONAL ORGANIZATIONS, OR OTHER ALLIED COUNTRIES.**

(a) IN GENERAL.--Section 1205 of the Merchant Marine Act of 1936, (46 App., United States Code, 1285) is amended by adding at the end the following new subsections:

“(c) INSURANCE OF VESSELS IN SUPPORT OF NATO, INTERNATIONAL ORGANIZATIONS, OR OTHER ALLIED COUNTRIES.-- The Secretary of Transportation may provide insurance for vessels, regardless of registration or ownership, supporting operations of an organization established by a mutual defense treaty to which the United States is a party, a state-party to such a treaty, an international organization of which the United States is a member by treaty or otherwise, or a country with respect to which the President determines cooperation under this subsection is important to the national security of the United States. Such vessels do not have to be under contract with a department or agency of the United States. If the request is made pursuant to an international agreement providing for the sharing of risks involved in mutual or joint

operations, the Secretary of Transportation, with the concurrence of the Secretary of State, may agree to the sharing of risk agreement or any lesser obligation on the part of the United States.

“(d) RECEIPT OF CONTRIBUTIONS.--Notwithstanding the provisions of section 3302(b) of title 31, United States Code, if the international agreements referenced in subsection (c) of this section provide for the sharing of risks involved in mutual or joint operations, contributions for losses incurred by the fund or financed pursuant to subsection (e) below, that are received from foreign entities may be deposited in the fund. Any associated obligation for indemnification from the requesting department, agency, or instrumentality of the United States Government is extinguished to the extent of any contributions received.

“(e) FUNDING OF INTERNATIONAL INDEMNITY OBLIGATIONS WITH BORROWING AUTHORITY.-- If at any time the moneys in the insurance fund are insufficient to pay an amount the Secretary is required to pay pursuant to this title, the Secretary may borrow money from the Treasury of the United States in such amounts as may be necessary to meet such obligations authorized under this title, but not to exceed \$500,000,000. Such amounts borrowed from the Treasury shall have such maturities, terms, and conditions as may be agreed upon by the Secretary of Transportation and the Secretary of the Treasury, but the maturities may not be in excess of forty years, and such amounts borrowed from the Treasury may be redeemable at the option of the Secretary of Transportation before maturity. Such amounts borrowed from the Treasury shall bear interest at a rate determined by the Secretary of the Treasury taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities

during the month preceding the issuance of the obligations of the Secretary. The interest payments on such obligations may be deferred with the approval of the Secretary of the Treasury but any interest payment so deferred shall bear interest. Said obligations shall be issued in amounts and at prices approved by the Secretary of the Treasury. The authority of the Secretary of Transportation to issue obligations hereunder shall remain available without fiscal year limitation. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Secretary of Transportation to be issued under this paragraph and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction of the United States the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under chapter 31 of title 31 are extended to include any fulfillment of the obligations of the Secretary of Transportation under this section.”.

(b) CLERICAL AMENDMENT.--The section heading for section 1205 of the Merchant Marine Act of 1936, (46 App. United States Code, 1285) is amended to read as follows:

“1205. Insurance of Property of Government Departments, Agencies, and International Organizations.”.

**SEC. 7. USE OF INSURANCE PROCEEDS FOR REPAIRS AT U.S.  
MERCHANT MARINE ACADEMY.**

Notwithstanding 31 U.S.C. 3302, the Maritime Administration may retain in its operations and training account and use, for purposes otherwise authorized by law and in addition to amounts otherwise appropriated, the amount received by the Maritime

Administration as insurance proceeds as a result of the fire that occurred on December 16, 1996, at the U. S. Merchant Marine Academy, Fitch Building.

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## **Section-by-Section Analysis**

### **Section 1. Short Title.**

Section 1 states the short title of the proposal, the "Maritime Administration Authorization Act for Fiscal Year 2003".

### **Section 2. Authorization of Appropriations for Fiscal Year 2003.**

Section 2 of the proposal authorizes appropriations for the Maritime Administration (MARAD) and related programs at the funding levels contained in the President's budget for Fiscal Year 2003.

Section 2(a) authorizes \$97,221,143 for MARAD operations and training activities, of which \$39,942,143 is authorized for MARAD operations. Operations and training activities include the costs incurred by headquarters and region staffs in the administration and direction of the various MARAD programs which cut across the American maritime industries, such as:

- X     Emergency planning and operations, including administration of the Maritime Security Program agreements.
- X     Negotiation of agreements, understandings and arrangements to reduce barriers that restrict American access to foreign ports and markets.
- X     Port, intermodal, and environmental activities.
- X     Labor, training, and safety activities.
- X     Administration of the capital construction fund/construction reserve fund.
- X     Monitoring compliance with cargo reservation statutes.

Operations and training funds authorized include \$49,716,000 for the operation of the United States Merchant Marine Academy (USMMA) at Kings Point, New York, and \$7,563,000 for continuing assistance to the six state maritime academies.

Of the total authorized for the Merchant Marine Academy, \$13,000,000 is included for capital improvements to remain available until expended. The \$13,000,000 will provide much needed resources for the Academy to continue capital improvements based on the Facilities Master Plan. Having these funds available until expended will allow the Academy to award major construction projects efficiently and optimally. Additionally, continued availability of non-expiring funding allows the Academy to negotiate better pricing and efficiently combine construction contract deliverables in a logical order that will optimize the Government's investment.

The USMMA offers a four-year undergraduate program that leads to a Bachelor of Science degree and to a merchant marine license as Third Mate or Third Assistant

Engineer. In addition, students are enrolled as midshipmen and are commissioned upon graduation as ensigns in the U.S. Naval Reserve. In exchange for the cost of their education, graduates assume a service obligation. USMMA graduates are required to serve as officers in the U.S. merchant marine for five years. If afloat billets are not available, they must seek employment in a maritime related field. Graduates must also maintain their U.S. Coast Guard issued license for six years and fulfill a Naval Reserve obligation of at least six years. Graduates may also fulfill their service obligation by entering active duty in any of the U.S. armed forces or the National Oceanic and Atmospheric Administration.

The state maritime academies program assists states in the training of individuals for service as officers in the U.S. merchant marine. Assistance is provided to participating states (California, Maine, Massachusetts, Michigan, New York, and Texas) in the form of direct payments to the academies, incentive payments to cadets currently enrolled in the Student Incentive Payment (SIP) Program, and funding the cost of maintenance and repair for MARAD ships provided on loan to the schools for use as training ships.

Operations and training funds in the amount of \$156,000, in conjunction with carryover funds previously appropriated, will also allow MARAD to continue to carryout its duties regarding the citizenship of certain fishing vessels, contained in the American Fisheries Act established by P.L. 105-277, the Omnibus Appropriations Act for Fiscal Year 1999. Among other things, the measure designates MARAD as the primary agency responsible for ensuring that the proper citizenship requirements are adhered to for ownership of vessels 100 feet or greater that have, or are seeking, a fisheries endorsement to their documentation. In enforcing citizenship standards, MARAD is required to scrutinize transfers of ownership or control rigorously, with particular attention to leases, charters, mortgages, and financing arrangements for fishing vessels. Further, MARAD approves qualified trustees to hold mortgages where vessel financing is procured through foreign lenders. MARAD is also required to determine, upon request, whether an individual or an entity has exceeded the statutory limitation on harvesting or processing of pollock in the pollock fishery.

Implementation of the American Fisheries Act by MARAD was accomplished by the effective date of the statute on October 1, 2001. The required Affidavit of U.S. citizenship was submitted by the owners of nearly 500 vessels and reviewed by MARAD. Thereafter, annual reviews of U.S. citizenship status will be conducted. In addition, MARAD will begin implementation of new standards for lenders and mortgagees, which go into effect on April 1, 2003.

Operations and training funds will also allow MARAD to continue to monitor and make findings and recommendations concerning the condition of the marine transportation system (MTS). The MTS provides American businesses with competitive access to suppliers and markets in an increasingly global economy. Over 95% of our overseas trade moves in or out of the Nation by ship. Maintaining an effective and efficient MTS is vital to the economic and national security of the nation.

Section 2(b) of the proposal contains an authorization for \$4,482,152 for administrative costs associated with the management of the existing portfolio of loan guarantees under the maritime guaranteed loan program under Title XI of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1271 *et seq.*). Title XI authorizes the Secretary of Transportation (delegated to the Maritime Administrator) to enter into commitments to guarantee private-sector debt financing for the construction or reconstruction of U.S.-flag vessels and export vessels in U.S. shipyards, and for U.S. shipyard modernization and improvement projects. No additional funding is authorized for Title XI loan guarantees during FY 2003. MARAD will continue to manage the loan portfolio and financial activity in the program using the funds requested for program administration.

Section 2(c) authorizes \$11,161,386 for ship disposal. This funding would enable MARAD to continue disposing of vessels in the National Defense Reserve Fleet that pose the highest risk to the environment. Included in these funds are staff and support costs associated with program implementation. MARAD will contract with dismantling facilities seeking best-value disposal consistent with its responsibility as outlined in section 3502 of P.L. 106-398, the Department of Defense Authorization Act for Fiscal Year 2001.

### **Section 3. Amendments to Title IX of the Merchant Marine Act, 1936.**

Section 3(a) would eliminate Ocean Freight Differential reimbursement. The Food Security Act of 1985 authorized the Secretary of Transportation to finance an increase in the U.S.-flag requirement for certain export programs operated by the Department of Agriculture and the Commodity Credit Corporation by issuing obligations to the Secretary of the Treasury to fund the arrangement. The amendment would eliminate the role of the Secretary of Transportation in funding programs of the Department of Agriculture and would eliminate unnecessary and complex intergovernmental transfer between MARAD, USDA and USAID. MARAD will continue to be actively engaged and consulted on the rules and regulations of the cargo preference program. As part of this process, it will work with the agencies to enhance MARAD's enforcement authority to assure compliance with the cargo preference laws. Funding for such programs, including the cost of using more costly U.S.-flag vessels, will instead take place through the normal budgeting process for affected agencies. The U.S.-flag requirement applicable to these programs will remain the same.

Section 3(b) would amend Title IX of the Merchant Marine Act, 1936, to create a new section 910, which would eliminate during a three-year window, the three-year period bulk or breakbulk vessels constructed abroad and newly registered under the U.S.-flag must wait in order to carry government-impelled cargo. This new section would remain in effect for three years from the date of enactment. Present law requires a vessel that is registered under a foreign flag, or is foreign built or reconstructed in a foreign shipyard, to be under U.S. registry for at least three years before the vessel is able to carry cargo reserved to U.S.-flag vessels under the Cargo Preference Act of 1954. This requirement does not apply to liner vessels that receive payments under the Maritime Security

Program. However, bulk vessels do not qualify for payments under the Maritime Security Program and are subject to the 3-year waiting period.

Due to inherently higher U.S.-flag operating costs and low world charter rates, it is unlikely that a vessel newly transferred to U.S. registry could support itself in U.S. foreign commercial trades during the three-year waiting period. Thus, this waiting period constitutes a barrier to replacement and modernization of the U.S.-flag bulk and breakbulk fleet.

The current drybulk fleet has been reduced to 10 vessels. Two of these were built in 2001 in a foreign shipyard. The remaining 8 which were built in U.S. shipyards have an average age of 26 years, significantly older than the world fleet and beyond a normal economic life. The resulting decrease in the U.S.-flag bulk fleet could adversely affect defense readiness, since the bulk fleet provides jobs for mariners needed to crew our reserve fleet vessels activated in time of national emergency.

The proposed amendment provides a limited opportunity for efficient modern vessels to register under the U.S. flag and be immediately eligible to carry preference cargoes. The vessels would be required to comply with inspection standards as set forth in chapter 33 of title 46, U.S. Code and would be required to have all necessary drydock work done in the United States. Such vessels shall not be granted preapproval to leave U.S. registry under section 9(e) of the Shipping Act, 1916. The vessels are not presently entitled to any benefit of the Capital Construction Fund under section 607 of the Merchant Marine Act, 1936.

It is anticipated that this amendment would improve the vessel profile of the U.S.-flag drybulk and breakbulk fleet, add jobs for U.S. merchant mariners, and increase the percentage of U.S. foreign commerce carried in U.S.-flag vessels. These additional modern vessels will increase the competition for carriage of government-impelled cargoes, which could result in substantial cost savings to the U.S. Government.

Section 3(c) would amend Section 901(b)(c)(2) of the Merchant Marine Act, 1936, to make the cargo preference year coincide with the Federal Government Fiscal Year for determining compliance with Title IX. This would simplify record keeping and management of the program without an adverse effect on involved agencies or shippers.



#### **Section 4. Elimination of Tariffs on Certain National Defense Activities.**

Section 4(a) of the bill would amend the Harmonized Tariff Schedule of the United States to provide for duty free treatment of emergency war materials imported for use by the Maritime Administration (MARAD). This proposal would streamline and make more efficient MARAD's performance of vital national security functions in its support of the Department of Defense (DoD).

MARAD provides assured, responsive shipping to support the deployment of military forces worldwide using its National Defense Reserve Fleet (NDRF) and the Ready Reserve Force (RRF), which is part of the NDRF. MARAD's fleet is a key element of the Navy's Strategic Sealift Program. MARAD maintains 76 RRF vessels in a high state of readiness to provide for the nation's sealift requirements in times of war or national emergencies.

The availability of these ships is essential to the deployment of DoD forces and equipment. The RRF fleet has been heavily relied upon in the past, including recent activations in support of the war in Afghanistan. When deployed, the vessels, maintained by MARAD, are turned over to the Navy's Military Sealift Command (MSC) for operational control. They do not engage in commercial activities.

Currently, 24 of the vessels that make up the fleet are foreign constructed vessels. Another seven vessels that are not foreign built are equipped with foreign made items. To maintain the vessels in a constant state of readiness, MARAD must regularly import foreign made spare parts, repair parts, equipment and supplies. MARAD berths vessels along all U.S. coasts; therefore, imports can occur in any Customs region or district.

The imports necessary to maintain this large fleet of vessels cause MARAD to incur large sums of customs duties. Since MARAD vessels are maintained for the operational control of MSC, and are required for rapid deployment during national emergencies, the supplies and equipment needed to maintain the vessels should be accorded the same type of duty free exemption for emergency war materials that is extended to DoD.

Section 4(b) of the bill would amend 19 USC 1466 by adding a new subsection to exempt activated NDRF vessels from paying duties on repairs made in foreign countries.

Due to the varying nature of their missions, NDRF/RRF vessels are frequently deployed overseas for extended periods, making periodic foreign repairs unavoidable. Because NDRF/RRF vessels are documented under the laws of the United States, they are required to pay an ad valorem tax of 50 percent of the cost of any repairs received abroad. Payment of the tax is an unnecessary and substantial drain on MARAD, DOD and Customs resources. These ships do not engage in commercial activities.

Although the ad valorem tax is intended to serve as an incentive for vessel operators to repair their vessels in United States shipyards, the provision is not practical when applied

to government owned vessels engaged in national security functions. Furthermore, pursuant to 10 USC 7310, vessels under the jurisdiction of the Secretary of the Navy are prohibited from making foreign repairs other than voyage repairs. Because activated NDRF/RRF vessels fall under the operational control of the Navy, 10 USC 7310 provides sufficient protection to U.S. shipyards without impinging upon the operational efficiencies and national security objectives of MARAD's ships.

Section 4(b) would exempt MARAD from paying the ad valorem tax, thereby streamlining and making more efficient MARAD's performance of vital national security functions in its support of DoD.

## **Section 5. Disposal of Obsolete Government Vessels.**

Section 5(a) would authorize the use of funds in the Vessel Operating Revolving Fund (VORF), obtained from the sale of ships, for remediation and disposal of obsolete government vessels. By law, MARAD serves as the U.S. Government's disposal agent for merchant-type vessels of 1,500 gross tons or more. Ship disposal remains a priority for the Administration. By Fiscal Year 2003, MARAD expects to have more than 130 vessels waiting to be scrapped. Of those ships, 30 need to be scrapped immediately as they pose serious environmental risks while they deteriorate in the water. The use of VORF funds for remediation and disposal could assist MARAD in its mandate to dispose of these vessels.

Section 5(b) would amend the code with respect to the transfer of obsolete vessels intended to be used as artificial reefs. Under current law, such transfers must take place at no cost to the Government. The amendments under 7(b) would allow the Federal Government to expend funds in support of the preparation of obsolete NDRF vessels for use as artificial reefs if a determination is made by the Secretary that such an expenditure is the most efficient use of available funds in light of the disposal options available.

Section 5(c) amends the U.S. Code with respect to the use of funds generated from the sale of obsolete NDRF vessels. Currently, any such funds available are to be divided between the NDRF, maritime academy training needs and the National Maritime Heritage Grants Program. The proposed amendment would allow any funds generated from the sale of obsolete vessels to be used exclusively for the abatement or disposal of other NDRF vessels that pose a safety hazard or a threat to the environment as determined by the Secretary. If the Secretary determines that no such hazard or threat exists, then any available funds would continue to be divided as currently required under the statute.

Section 5(d) would amend MARAD's ship disposal reporting requirements to Congress. The amendment would allow MARAD to report on disposal activities every 12 months versus the current 6-month reporting period. The 12-month period would be more

practical, given the deliberative nature of the contracting and disposal processes as well as the annual budgeting and appropriations cycle. A less frequent reporting cycle would also ease the administrative burden on MARAD's small-ship disposal staff, allowing more time to focus on disposal efforts.

#### **Section 6. Insurance for vessels in support of NATO, international organizations, or other allied countries.**

The proposed changes would enable the Department of Transportation to support shared logistics operations with an organization established by a mutual defense treaty to which the United States is a party, a state-party to such a treaty, an international organization of which the United States is a member by treaty or otherwise, or a country with respect to which the President determines cooperation under this subsection is important to the national security of the United States. The ability to issue insurance for vessels pursuant to an agreement with these organizations would allow the sharing of risk of loss between multiple countries. Such a provision would allow greater use of foreign vessels and distribute the risk of loss of a ship during a contingency to these carriers. Currently there is a disproportionate reliance, and thus an increased risk of loss, to US flag carriers.

The proposal would authorize the receipt of contributions from other countries these organizations to offset losses sustained by United States flag shippers participating in shared logistics operations and insured pursuant to this program. These contributions would be deposited in the fund and would relieve the Department of Defense or other United States Department or Agency, acting as an indemnifying agency, of the obligation to reimburse the fund to the extent of any contributions received.

The changes further would authorize the Secretary of Transportation to utilize borrowing authority to obtain sufficient funds to cover liabilities incurred in support of war risk insurance coverage. If enacted, this proposal could increase the budgetary requirements of the United States Government.

#### **Section 7. Use of Insurance Proceeds for Repairs at the Merchant Marine Academy.**

This section would allow MARAD to use funds received from a settlement for legally authorized purposes, including completion of repairs to the U.S. Merchant Marine Academy, Fitch Building. On December 16, 1996, a fire occurred in the Fitch Building at the U.S. Merchant Marine Academy. Damages were estimated as being in excess of \$1,100,000 to the building and a loss of materials stored at the building. MARAD contended that a contractor working on the building was at fault. After unsuccessful negotiations and commencement of litigation, a settlement for \$708,100 was agreed to.

To date, the U.S. Merchant Marine Academy has only been able to repair a portion of the damages, and at a cost to the financing of other projects. If the contractor had repaired the damage to the Fitch Building without the need for litigation, there would be no need

to return the funds received to the Treasury as a miscellaneous receipt. Allowing MARAD to use the settlement funds to repair the Fitch Building would allow for the repair of damage for which the funds were meant to compensate.

##



THE SECRETARY OF TRANSPORTATION  
WASHINGTON, D.C. 20590

June 5, 2002

The Honorable J. Dennis Hastert  
Speaker of the House of Representatives  
Washington, D.C. 20515

Dear Mr. Speaker:

There is transmitted herewith a proposed bill

"To authorize appropriations for Fiscal Year 2003 for certain maritime programs of the Department of Transportation, and for other purposes."

This proposal authorizes appropriations for certain maritime programs to promote a strong U.S. Merchant Marine at the funding levels contained in the President's budget for Fiscal Year 2003. These programs include operations and training activities and the cost of administering guaranteed loans under the Title XI loan guarantee program, as required by the Federal Credit Reform Act of 1990.

Operations and training funds requested in section two of the proposal include the costs incurred by headquarters and region staffs in the administration and direction of the various programs of the Maritime Administration (MARAD). Operations and training funds also include funds for the operation of the United States Merchant Marine Academy at Kings Point, New York, and continuing assistance to the six State maritime academies in the form of direct payments, incentive payments to cadets currently enrolled in the Student Incentive Payment (SIP) Program, and funding for maintenance and repair of MARAD ships on loan to the academies for use as training ships. Operations and training funds will also allow MARAD to continue administration of the American Fisheries Act, established by P.L. 105-277, the Omnibus Appropriations Act for Fiscal Year 1999.

The proposal will also authorize funding for the disposal of obsolete government vessels. This funding will enable MARAD to continue disposing of vessels in the National Defense Reserve Fleet (NDRF) that pose the highest risk to the environment. Included in these funds are administrative costs associated with program implementation.

Additionally, the proposal will provide administrative funding associated with managing the Title XI loan guarantee portfolio.

Section three eliminates reimbursement by the Department of Transportation to the Department of Agriculture for certain export programs and would help to enhance MARAD's enforcement authority of cargo preference laws. It also streamlines

management of the cargo preference program by conforming the cargo preference year to the Federal Government Fiscal Year.

Section three also temporarily eliminates the 3-year waiting period that a newly registered bulk or breakbulk vessel constructed abroad must satisfy in order to carry government-impelled cargo. It is anticipated that this amendment will improve the vessel profile of the U.S.-flag dry bulk fleet, add jobs for U.S. merchant mariners, and increase the percentage of U.S. foreign commerce carried in U.S.-flag vessels.

Section four will eliminate certain tariffs levied upon repairs and repair parts that are needed by the National Defense Reserve Fleet/Ready Reserve Force. The elimination of these tariffs will streamline MARAD's performance of its national security function with respect to the operation of these vessels.

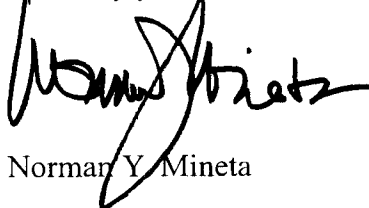
Section five will allow the Secretary of Transportation to use funds in the Vessel Operations Revolving Fund for disposal of obsolete Government vessels. Currently, use of the fund is limited to operation and maintenance of vessels under the jurisdiction of the Secretary of Transportation. Section five will also allow the Government to assist in the preparation of obsolete NDRF vessels for use as artificial reefs if the expenditure is the most efficient use of funds given the other disposal options available. At present, disposal of obsolete vessels by turning them into artificial reefs must be accomplished at no cost to the Government. This section would also create a 12-month congressional reporting cycle on the disposal of obsolete vessels in lieu of the existing 6-month cycle.

Section six provides the Secretary of Transportation with a mechanism to fund any deficiencies that may arise with respect to the Department's administration of war risk insurance for commercial vessels.

Last, section seven allows MARAD to use funds received from a settlement for legally authorized purposes, including completion of repairs to the Fitch Building at the U.S. Merchant Marine Academy.

The Office of Management and Budget advises that there is no objection to the presentation of this proposed legislation to Congress, and that its enactment would be in accord with the program of the President.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Norman Y. Mineta", written over a horizontal line.

Norman Y. Mineta

2 Enclosures

Identical letter to the President of the Senate  
Draft bill and section-by-section analysis

## A BILL

To authorize appropriations for Fiscal Year 2003 for certain maritime programs of the Department of Transportation, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### **SECTION 1. SHORT TITLE.**

This Act may be cited as the “Maritime Administration Authorization Act for Fiscal Year 2003.”

### **SEC. 2. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2003.**

Funds are hereby authorized to be appropriated, as Appropriations Acts may provide, for the use of the Department of Transportation for the Maritime Administration as follows:

(a) OPERATIONS AND TRAINING.- For expenses necessary for operations and training activities, not to exceed \$97,221,143 for the fiscal year ending September 30, 2003, of which \$13,000,000 is for capital improvements at the U. S. Merchant Marine Academy, to remain available until expended.

(b) MARITIME GUARANTEED LOANS.- For administrative expenses related to loan guarantee commitments under Title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 *et seq.*) \$4,482,152.

(c) SHIP DISPOSAL.- For disposal of obsolete vessels in the National Defense Reserve Fleet, \$11,161,386, to remain available until expended.

**SEC. 3. AMENDMENTS TO TITLE IX OF THE MERCHANT MARINE ACT,  
1936.**

**(a) ELIMINATION OF OCEAN FREIGHT DIFFERENTIAL  
REIMBURSEMENT.-**

(1) Section 901d of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241h) is repealed.

(2) Sections 901e through 901k of the Merchant Marine Act, 1936 are redesignated as sections 901d through 901j, respectively.

(3) Section 901d, as redesignated by paragraph (2), is amended by striking “901k” and inserting “901j”.

(4) Section 901e, as redesignated by paragraph (2), is amended to read as follows:

“Sec. 901e. TERMINATION OF SECTIONS 901a THROUGH 901d AND 901f THROUGH 901j UPON NOTIFICATION OF CONGRESS RESPECTING FAILURE TO FINANCE THE INCREASED OCEAN FREIGHT CHARGES. The Secretary of Transportation shall notify Congress within 10 working days of determining that the Secretary of Agriculture is unable to or does not agree to finance the increased ocean freight charges resulting from the requirements of section 901b(a). The operation of sections 901a through 901d and 901f through 901j shall terminate 90 days after the date on which a notification is made under this section, except with respect to shipments of agricultural commodities and products subject to contracts entered into before the expiration of 90-day period, unless within the 90-day period the Secretary of Transportation is notified by the Secretary of Agriculture



that funds are available to finance the increased freight charges resulting from the requirements of section 901b(a). In the event of termination under this section, nothing in section 901a through 901c shall be construed as exempting export activities from or subjecting export activities to the cargo preference laws. In the event of termination under this section, the 50 percent requirement in section 901(b) of the Merchant Marine Act, 1936, shall remain in full effect.”.

(5) Section 901f, as redesignated by paragraph (2), is amended by striking “901j” and inserting “901i”.

(b) DOCUMENTATION OF CERTAIN DRY CARGO VESSELS.- Title IX of the Merchant Marine Act, 1936 (46 U.S.C. App. 1101 *et seq.*) is amended by adding at the end the following:

“SEC. 910. DOCUMENTATION OF CERTAIN DRY CARGO VESSELS.

“(a) IN GENERAL.- The restrictions of section 901(b)(1) of this Act concerning a vessel built in a foreign country shall not apply to a dry-bulk or breakbulk vessel over 7,500 deadweight tons that has been originally delivered as a newly constructed vessel from a foreign shipyard or contracted for construction in a foreign shipyard, during the three-year period that begins on the date of enactment of this section.

“(b) REQUIREMENTS.- A vessel timely contracted for or delivered pursuant to subsection (a) and documented under the laws of the United States shall be deemed to have been United-States built for purposes of sections 901(b) and 901b of this Act only if--

“(1) the vessel is not documented in another country before being documented under the laws of the United States;

“(2) the vessel complies with the inspection standards under chapter 33 of title 46, United States Code;

“(3) actual delivery of a vessel contracted for construction takes place on or before the 3-year anniversary of the date of the contract to construct the vessel; and

“(4) not later than 90 days before a contract for the construction or purchase of a new vessel intended to be documented under this section is made final, the person contracting for the new vessel shall provide, to each shipyard in the United States capable of constructing the vessel sought to be built or purchased, notice of the intended foreign construction or purchase.

“(c) DRYDOCK WORK.- In order to remain eligible to carry preference cargo under sections 901(b) and 901b of this Act, a vessel documented under this section must perform any drydock work necessary to maintain its Coast Guard certificate of inspection and classification society class rating in a United States shipyard.

“(d) SECTION 12106(e) OF TITLE 46- Section 12106(e) of title 46, United States Code, does not apply to a vessel built under this section.”.

(c) CONFORMING CARGO PREFERENCE YEAR TO FEDERAL FISCAL YEAR.- Section 901b(c)(2) of the Merchant Marine Act, 1936 (46 U.S.C App. 1241f(c)(2)) is amended by inserting after “1986” the following: “, the 18-month period beginning April 1, 2002, and the 12-month period beginning October 1, 2003, and each year thereafter.”.

**SEC. 4. ELIMINATION OF TARIFFS ON CERTAIN NATIONAL DEFENSE ACTIVITIES.**

(a) DUTY- FREE TREATMENT FOR EMERGENCY WAR MATERIALS IMPORTED FOR USE BY THE MARITIME ADMINISTRATION. (1) The superior text to subheading 9808.00.30 of Chapter 98 of the Harmonized Tariff Schedule of the United States is amended by inserting after the word “departments” the words “or the Maritime Administration”.

(2) Subheading 9808.00.30 of Chapter 98 of the Harmonized Tariff Schedule of the United States is re-designated as 9808.00.35.

(3) The amendments made in this subsection shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after the fifteenth day after the date of enactment of this Act.

(b) ELIMINATION OF AD VALOREM TAX ON FOREIGN REPAIRS MADE TO VESSELS OPERATED AS PART OF THE NATIONAL DEFENSE RESERVE FLEET.- Section 466 of the Tariff Act of 1930 (19 U.S.C. 1466) is amended by re-designating subsections (g) and (h) as subsections (h) and (i), respectively, and inserting after subsection (f) the following new subsection:

“(g) National Defense Reserve Fleet Exception. The duty imposed under subsection (a) shall not apply to the cost of equipment, or any part thereof purchased, of repair parts or materials used, or of repairs made in a foreign country for any vessel operated as part of the National Defense Reserve Fleet when the vessel is under the jurisdictional control of the Department of Defense.”.

## **SEC. 5. DISPOSAL OF OBSOLETE GOVERNMENT VESSELS.**

(a) VESSEL OPERATIONS REVOLVING FUND.- Section 801 of the Act of June 2, 1951 (46 U.S.C. App. 1241a) is amended by striking the words “and betterment” in the first sentence and inserting “remediation and disposal”.

(b) USE OF OBSOLETE VESSELS AS ARTIFICIAL REEFS.- Section 4 of the Act of August 22, 1972 (16 U.S.C.1220a) is amended:

(1) by amending paragraph (3) to read as follows:

“(3) At the discretion of the Secretary the transfer may be accomplished with the expenditure of Federal funds paid to the State and applied to the cost of preparing the vessel for use as an artificial reef. The amount of funding provided shall be based upon consideration of the availability of funds, benefit to the program, and cost effectiveness compared to other ship disposal options. The transfer shall occur with the State taking delivery of obsolete ships at fleetside of the National Defense Reserve Fleet in an ‘as is - where is’ condition; and”;

(2) by amending paragraph (4) to read as follows:

“(4) The Secretary shall require vessel recipients to provide certain cost data and other information as determined by the Secretary to justify and document the funding provided by the Federal Government for each vessel transferred. The Secretary may require any additional terms and conditions to protect the environment and the interests of the United States.”.

(c) ABATEMENT OF SAFETY AND ENVIRONMENTAL HAZARDS.-

Section 6(a)(1) of the National Maritime Heritage Act of 1994 (16 U.S.C. 5405(a)(1)) is amended by inserting after the word “available” the following: “exclusively to the

Administrator of the Maritime Administration if it is determined by the Administrator that the funds generated from the sale of obsolete NDRF vessels are necessary for the abatement or disposal of other NDRF vessels that may be a danger to safety or the environment. Such funds shall be available until expended. If no such determination is made, the funds shall be available”.

(c) REPORTING TO CONGRESS ON DISPOSAL OF OBSOLETE VESSELS.

Pub. L. 106-398, section 1 [div. B, title XXXV, section 3502(e)] is amended by striking “6 months” and inserting “12 months”.

**SEC. 6. INSURANCE FOR VESSELS IN SUPPORT OF NATO,  
INTERNATIONAL ORGANIZATIONS, OR OTHER ALLIED COUNTRIES.**

(a) IN GENERAL.--Section 1205 of the Merchant Marine Act of 1936, (46 App., United States Code, 1285) is amended by adding at the end the following new subsections:

“(c) INSURANCE OF VESSELS IN SUPPORT OF NATO, INTERNATIONAL ORGANIZATIONS, OR OTHER ALLIED COUNTRIES.-- The Secretary of Transportation may provide insurance for vessels, regardless of registration or ownership, supporting operations of an organization established by a mutual defense treaty to which the United States is a party, a state-party to such a treaty, an international organization of which the United States is a member by treaty or otherwise, or a country with respect to which the President determines cooperation under this subsection is important to the national security of the United States. Such vessels do not have to be under contract with a department or agency of the United States. If the request is made pursuant to an international agreement providing for the sharing of risks involved in mutual or joint

operations, the Secretary of Transportation, with the concurrence of the Secretary of State, may agree to the sharing of risk agreement or any lesser obligation on the part of the United States.

“(d) RECEIPT OF CONTRIBUTIONS.--Notwithstanding the provisions of section 3302(b) of title 31, United States Code, if the international agreements referenced in subsection (c) of this section provide for the sharing of risks involved in mutual or joint operations, contributions for losses incurred by the fund or financed pursuant to subsection (e) below, that are received from foreign entities may be deposited in the fund. Any associated obligation for indemnification from the requesting department, agency, or instrumentality of the United States Government is extinguished to the extent of any contributions received.

“(e) FUNDING OF INTERNATIONAL INDEMNITY OBLIGATIONS WITH BORROWING AUTHORITY.-- If at any time the moneys in the insurance fund are insufficient to pay an amount the Secretary is required to pay pursuant to this title, the Secretary may borrow money from the Treasury of the United States in such amounts as may be necessary to meet such obligations authorized under this title, but not to exceed \$500,000,000. Such amounts borrowed from the Treasury shall have such maturities, terms, and conditions as may be agreed upon by the Secretary of Transportation and the Secretary of the Treasury, but the maturities may not be in excess of forty years, and such amounts borrowed from the Treasury may be redeemable at the option of the Secretary of Transportation before maturity. Such amounts borrowed from the Treasury shall bear interest at a rate determined by the Secretary of the Treasury taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities

during the month preceding the issuance of the obligations of the Secretary. The interest payments on such obligations may be deferred with the approval of the Secretary of the Treasury but any interest payment so deferred shall bear interest. Said obligations shall be issued in amounts and at prices approved by the Secretary of the Treasury. The authority of the Secretary of Transportation to issue obligations hereunder shall remain available without fiscal year limitation. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Secretary of Transportation to be issued under this paragraph and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction of the United States the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under chapter 31 of title 31 are extended to include any fulfillment of the obligations of the Secretary of Transportation under this section.”.

(b) CLERICAL AMENDMENT.--The section heading for section 1205 of the Merchant Marine Act of 1936, (46 App. United States Code, 1285) is amended to read as follows:

“1205. Insurance of Property of Government Departments, Agencies, and International Organizations.”.

## **SEC. 7. USE OF INSURANCE PROCEEDS FOR REPAIRS AT U.S.**

### **MERCHANT MARINE ACADEMY.**

Notwithstanding 31 U.S.C. 3302, the Maritime Administration may retain in its operations and training account and use, for purposes otherwise authorized by law and in addition to amounts otherwise appropriated, the amount received by the Maritime

Administration as insurance proceeds as a result of the fire that occurred on December 16, 1996, at the U. S. Merchant Marine Academy, Fitch Building.

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## **Section-by-Section Analysis**

### **Section 1. Short Title.**

Section 1 states the short title of the proposal, the "Maritime Administration Authorization Act for Fiscal Year 2003".

### **Section 2. Authorization of Appropriations for Fiscal Year 2003.**

Section 2 of the proposal authorizes appropriations for the Maritime Administration (MARAD) and related programs at the funding levels contained in the President's budget for Fiscal Year 2003.

Section 2(a) authorizes \$97,221,143 for MARAD operations and training activities, of which \$39,942,143 is authorized for MARAD operations. Operations and training activities include the costs incurred by headquarters and region staffs in the administration and direction of the various MARAD programs which cut across the American maritime industries, such as:

- X     Emergency planning and operations, including administration of the Maritime Security Program agreements.
- X     Negotiation of agreements, understandings and arrangements to reduce barriers that restrict American access to foreign ports and markets.
- X     Port, intermodal, and environmental activities.
- X     Labor, training, and safety activities.
- X     Administration of the capital construction fund/construction reserve fund.
- X     Monitoring compliance with cargo reservation statutes.

Operations and training funds authorized include \$49,716,000 for the operation of the United States Merchant Marine Academy (USMMA) at Kings Point, New York, and \$7,563,000 for continuing assistance to the six state maritime academies.

Of the total authorized for the Merchant Marine Academy, \$13,000,000 is included for capital improvements to remain available until expended. The \$13,000,000 will provide much needed resources for the Academy to continue capital improvements based on the Facilities Master Plan. Having these funds available until expended will allow the Academy to award major construction projects efficiently and optimally. Additionally, continued availability of non-expiring funding allows the Academy to negotiate better pricing and efficiently combine construction contract deliverables in a logical order that will optimize the Government's investment.

The USMMA offers a four-year undergraduate program that leads to a Bachelor of Science degree and to a merchant marine license as Third Mate or Third Assistant

Engineer. In addition, students are enrolled as midshipmen and are commissioned upon graduation as ensigns in the U.S. Naval Reserve. In exchange for the cost of their education, graduates assume a service obligation. USMMA graduates are required to serve as officers in the U.S. merchant marine for five years. If afloat billets are not available, they must seek employment in a maritime related field. Graduates must also maintain their U.S. Coast Guard issued license for six years and fulfill a Naval Reserve obligation of at least six years. Graduates may also fulfill their service obligation by entering active duty in any of the U.S. armed forces or the National Oceanic and Atmospheric Administration.

The state maritime academies program assists states in the training of individuals for service as officers in the U.S. merchant marine. Assistance is provided to participating states (California, Maine, Massachusetts, Michigan, New York, and Texas) in the form of direct payments to the academies, incentive payments to cadets currently enrolled in the Student Incentive Payment (SIP) Program, and funding the cost of maintenance and repair for MARAD ships provided on loan to the schools for use as training ships.

Operations and training funds in the amount of \$156,000, in conjunction with carryover funds previously appropriated, will also allow MARAD to continue to carryout its duties regarding the citizenship of certain fishing vessels, contained in the American Fisheries Act established by P.L. 105-277, the Omnibus Appropriations Act for Fiscal Year 1999. Among other things, the measure designates MARAD as the primary agency responsible for ensuring that the proper citizenship requirements are adhered to for ownership of vessels 100 feet or greater that have, or are seeking, a fisheries endorsement to their documentation. In enforcing citizenship standards, MARAD is required to scrutinize transfers of ownership or control rigorously, with particular attention to leases, charters, mortgages, and financing arrangements for fishing vessels. Further, MARAD approves qualified trustees to hold mortgages where vessel financing is procured through foreign lenders. MARAD is also required to determine, upon request, whether an individual or an entity has exceeded the statutory limitation on harvesting or processing of pollock in the pollock fishery.

Implementation of the American Fisheries Act by MARAD was accomplished by the effective date of the statute on October 1, 2001. The required Affidavit of U.S. citizenship was submitted by the owners of nearly 500 vessels and reviewed by MARAD. Thereafter, annual reviews of U.S. citizenship status will be conducted. In addition, MARAD will begin implementation of new standards for lenders and mortgagees, which go into effect on April 1, 2003.

Operations and training funds will also allow MARAD to continue to monitor and make findings and recommendations concerning the condition of the marine transportation system (MTS). The MTS provides American businesses with competitive access to suppliers and markets in an increasingly global economy. Over 95% of our overseas trade moves in or out of the Nation by ship. Maintaining an effective and efficient MTS is vital to the economic and national security of the nation.

Section 2(b) of the proposal contains an authorization for \$4,482,152 for administrative costs associated with the management of the existing portfolio of loan guarantees under the maritime guaranteed loan program under Title XI of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1271 *et seq.*). Title XI authorizes the Secretary of Transportation (delegated to the Maritime Administrator) to enter into commitments to guarantee private-sector debt financing for the construction or reconstruction of U.S.-flag vessels and export vessels in U.S. shipyards, and for U.S. shipyard modernization and improvement projects. No additional funding is authorized for Title XI loan guarantees during FY 2003. MARAD will continue to manage the loan portfolio and financial activity in the program using the funds requested for program administration.

Section 2(c) authorizes \$11,161,386 for ship disposal. This funding would enable MARAD to continue disposing of vessels in the National Defense Reserve Fleet that pose the highest risk to the environment. Included in these funds are staff and support costs associated with program implementation. MARAD will contract with dismantling facilities seeking best-value disposal consistent with its responsibility as outlined in section 3502 of P.L. 106-398, the Department of Defense Authorization Act for Fiscal Year 2001.

### **Section 3. Amendments to Title IX of the Merchant Marine Act, 1936.**

Section 3(a) would eliminate Ocean Freight Differential reimbursement. The Food Security Act of 1985 authorized the Secretary of Transportation to finance an increase in the U.S.-flag requirement for certain export programs operated by the Department of Agriculture and the Commodity Credit Corporation by issuing obligations to the Secretary of the Treasury to fund the arrangement. The amendment would eliminate the role of the Secretary of Transportation in funding programs of the Department of Agriculture and would eliminate unnecessary and complex intergovernmental transfer between MARAD, USDA and USAID. MARAD will continue to be actively engaged and consulted on the rules and regulations of the cargo preference program. As part of this process, it will work with the agencies to enhance MARAD's enforcement authority to assure compliance with the cargo preference laws. Funding for such programs, including the cost of using more costly U.S.-flag vessels, will instead take place through the normal budgeting process for affected agencies. The U.S.-flag requirement applicable to these programs will remain the same.

Section 3(b) would amend Title IX of the Merchant Marine Act, 1936, to create a new section 910, which would eliminate during a three-year window, the three-year period bulk or breakbulk vessels constructed abroad and newly registered under the U.S.-flag must wait in order to carry government-impelled cargo. This new section would remain in effect for three years from the date of enactment. Present law requires a vessel that is registered under a foreign flag, or is foreign built or reconstructed in a foreign shipyard, to be under U.S. registry for at least three years before the vessel is able to carry cargo reserved to U.S.-flag vessels under the Cargo Preference Act of 1954. This requirement does not apply to liner vessels that receive payments under the Maritime Security

Program. However, bulk vessels do not qualify for payments under the Maritime Security Program and are subject to the 3-year waiting period.

Due to inherently higher U.S.-flag operating costs and low world charter rates, it is unlikely that a vessel newly transferred to U.S. registry could support itself in U.S. foreign commercial trades during the three-year waiting period. Thus, this waiting period constitutes a barrier to replacement and modernization of the U.S.-flag bulk and breakbulk fleet.

The current drybulk fleet has been reduced to 10 vessels. Two of these were built in 2001 in a foreign shipyard. The remaining 8 which were built in U.S. shipyards have an average age of 26 years, significantly older than the world fleet and beyond a normal economic life. The resulting decrease in the U.S.-flag bulk fleet could adversely affect defense readiness, since the bulk fleet provides jobs for mariners needed to crew our reserve fleet vessels activated in time of national emergency.

The proposed amendment provides a limited opportunity for efficient modern vessels to register under the U.S. flag and be immediately eligible to carry preference cargoes. The vessels would be required to comply with inspection standards as set forth in chapter 33 of title 46, U.S. Code and would be required to have all necessary drydock work done in the United States. Such vessels shall not be granted preapproval to leave U.S. registry under section 9(e) of the Shipping Act, 1916. The vessels are not presently entitled to any benefit of the Capital Construction Fund under section 607 of the Merchant Marine Act, 1936.

It is anticipated that this amendment would improve the vessel profile of the U.S.-flag drybulk and breakbulk fleet, add jobs for U.S. merchant mariners, and increase the percentage of U.S. foreign commerce carried in U.S.-flag vessels. These additional modern vessels will increase the competition for carriage of government-impelled cargoes, which could result in substantial cost savings to the U.S. Government.

Section 3(c) would amend Section 901(b)(c)(2) of the Merchant Marine Act, 1936, to make the cargo preference year coincide with the Federal Government Fiscal Year for determining compliance with Title IX. This would simplify record keeping and management of the program without an adverse effect on involved agencies or shippers.

#### **Section 4. Elimination of Tariffs on Certain National Defense Activities.**

Section 4(a) of the bill would amend the Harmonized Tariff Schedule of the United States to provide for duty free treatment of emergency war materials imported for use by the Maritime Administration (MARAD). This proposal would streamline and make more efficient MARAD's performance of vital national security functions in its support of the Department of Defense (DoD).

MARAD provides assured, responsive shipping to support the deployment of military forces worldwide using its National Defense Reserve Fleet (NDRF) and the Ready Reserve Force (RRF), which is part of the NDRF. MARAD's fleet is a key element of the Navy's Strategic Sealift Program. MARAD maintains 76 RRF vessels in a high state of readiness to provide for the nation's sealift requirements in times of war or national emergencies.

The availability of these ships is essential to the deployment of DoD forces and equipment. The RRF fleet has been heavily relied upon in the past, including recent activations in support of the war in Afghanistan. When deployed, the vessels, maintained by MARAD, are turned over to the Navy's Military Sealift Command (MSC) for operational control. They do not engage in commercial activities.

Currently, 24 of the vessels that make up the fleet are foreign constructed vessels. Another seven vessels that are not foreign built are equipped with foreign made items. To maintain the vessels in a constant state of readiness, MARAD must regularly import foreign made spare parts, repair parts, equipment and supplies. MARAD berths vessels along all U.S. coasts; therefore, imports can occur in any Customs region or district.

The imports necessary to maintain this large fleet of vessels cause MARAD to incur large sums of customs duties. Since MARAD vessels are maintained for the operational control of MSC, and are required for rapid deployment during national emergencies, the supplies and equipment needed to maintain the vessels should be accorded the same type of duty free exemption for emergency war materials that is extended to DoD.

Section 4(b) of the bill would amend 19 USC 1466 by adding a new subsection to exempt activated NDRF vessels from paying duties on repairs made in foreign countries.

Due to the varying nature of their missions, NDRF/RRF vessels are frequently deployed overseas for extended periods, making periodic foreign repairs unavoidable. Because NDRF/RRF vessels are documented under the laws of the United States, they are required to pay an ad valorem tax of 50 percent of the cost of any repairs received abroad. Payment of the tax is an unnecessary and substantial drain on MARAD, DOD and Customs resources. These ships do not engage in commercial activities.

Although the ad valorem tax is intended to serve as an incentive for vessel operators to repair their vessels in United States shipyards, the provision is not practical when applied

to government owned vessels engaged in national security functions. Furthermore, pursuant to 10 USC 7310, vessels under the jurisdiction of the Secretary of the Navy are prohibited from making foreign repairs other than voyage repairs. Because activated NDRF/RRF vessels fall under the operational control of the Navy, 10 USC 7310 provides sufficient protection to U.S. shipyards without impinging upon the operational efficiencies and national security objectives of MARAD's ships.

Section 4(b) would exempt MARAD from paying the ad valorem tax, thereby streamlining and making more efficient MARAD's performance of vital national security functions in its support of DoD.

## **Section 5. Disposal of Obsolete Government Vessels.**

Section 5(a) would authorize the use of funds in the Vessel Operating Revolving Fund (VORF), obtained from the sale of ships, for remediation and disposal of obsolete government vessels. By law, MARAD serves as the U.S. Government's disposal agent for merchant-type vessels of 1,500 gross tons or more. Ship disposal remains a priority for the Administration. By Fiscal Year 2003, MARAD expects to have more than 130 vessels waiting to be scrapped. Of those ships, 30 need to be scrapped immediately as they pose serious environmental risks while they deteriorate in the water. The use of VORF funds for remediation and disposal could assist MARAD in its mandate to dispose of these vessels.

Section 5(b) would amend the code with respect to the transfer of obsolete vessels intended to be used as artificial reefs. Under current law, such transfers must take place at no cost to the Government. The amendments under 7(b) would allow the Federal Government to expend funds in support of the preparation of obsolete NDRF vessels for use as artificial reefs if a determination is made by the Secretary that such an expenditure is the most efficient use of available funds in light of the disposal options available.

Section 5(c) amends the U.S. Code with respect to the use of funds generated from the sale of obsolete NDRF vessels. Currently, any such funds available are to be divided between the NDRF, maritime academy training needs and the National Maritime Heritage Grants Program. The proposed amendment would allow any funds generated from the sale of obsolete vessels to be used exclusively for the abatement or disposal of other NDRF vessels that pose a safety hazard or a threat to the environment as determined by the Secretary. If the Secretary determines that no such hazard or threat exists, then any available funds would continue to be divided as currently required under the statute.

Section 5(d) would amend MARAD's ship disposal reporting requirements to Congress. The amendment would allow MARAD to report on disposal activities every 12 months versus the current 6-month reporting period. The 12-month period would be more

practical, given the deliberative nature of the contracting and disposal processes as well as the annual budgeting and appropriations cycle. A less frequent reporting cycle would also ease the administrative burden on MARAD's small-ship disposal staff, allowing more time to focus on disposal efforts.

#### **Section 6. Insurance for vessels in support of NATO, international organizations, or other allied countries.**

The proposed changes would enable the Department of Transportation to support shared logistics operations with an organization established by a mutual defense treaty to which the United States is a party, a state-party to such a treaty, an international organization of which the United States is a member by treaty or otherwise, or a country with respect to which the President determines cooperation under this subsection is important to the national security of the United States. The ability to issue insurance for vessels pursuant to an agreement with these organizations would allow the sharing of risk of loss between multiple countries. Such a provision would allow greater use of foreign vessels and distribute the risk of loss of a ship during a contingency to these carriers. Currently there is a disproportionate reliance, and thus an increased risk of loss, to US flag carriers.

The proposal would authorize the receipt of contributions from other countries these organizations to offset losses sustained by United States flag shippers participating in shared logistics operations and insured pursuant to this program. These contributions would be deposited in the fund and would relieve the Department of Defense or other United States Department or Agency, acting as an indemnifying agency, of the obligation to reimburse the fund to the extent of any contributions received.

The changes further would authorize the Secretary of Transportation to utilize borrowing authority to obtain sufficient funds to cover liabilities incurred in support of war risk insurance coverage. If enacted, this proposal could increase the budgetary requirements of the United States Government.

#### **Section 7. Use of Insurance Proceeds for Repairs at the Merchant Marine Academy.**

This section would allow MARAD to use funds received from a settlement for legally authorized purposes, including completion of repairs to the U.S. Merchant Marine Academy, Fitch Building. On December 16, 1996, a fire occurred in the Fitch Building at the U.S. Merchant Marine Academy. Damages were estimated as being in excess of \$1,100,000 to the building and a loss of materials stored at the building. MARAD contended that a contractor working on the building was at fault. After unsuccessful negotiations and commencement of litigation, a settlement for \$708,100 was agreed to.

To date, the U.S. Merchant Marine Academy has only been able to repair a portion of the damages, and at a cost to the financing of other projects. If the contractor had repaired the damage to the Fitch Building without the need for litigation, there would be no need

to return the funds received to the Treasury as a miscellaneous receipt. Allowing MARAD to use the settlement funds to repair the Fitch Building would allow for the repair of damage for which the funds were meant to compensate.

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